

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

- - -

Harry G. Beyoglides, Jr.,
Special Administrator of the
Estate of Robert Andrew
Richardson, Sr., Deceased,
Plaintiff,

vs.

Case No. 3:14-CV-00158

Phil Plummer/Montgomery County
Sheriff, et al.,
Defendants

- - -

DEPOSITION OF JOHN MICHAEL CLYMER
the Defendant herein, called by the Plaintiff under the
applicable Rules of Civil Procedure, taken before me,
Whitney Layne, a Notary Public for the State of Ohio, at
the law firm of Dinkler & Pregon, 5335 Far Hills Avenue,
Suite 117, Dayton, Ohio 45429 on November 18, 2015 at
3:00 p.m.

LAYNE & ASSOCIATES
6723 COOPERSTONE DRIVE
DUBLIN, OHIO 43017
614-309-1669

1 APPEARANCES	1 EXAMINATION INDEX
2	2
3 NICHOLAS DICELLO, ESQUIRE	3 JOHN MICHAEL CLYMER
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4 1001 Lakeside Avenue	5
5 Suite 1700	6 EXHIBIT INDEX
5 Cleveland, Ohio 44114	7 Exhibit Marked
6 on behalf of the Plaintiff	8 2.....Page 58
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14 Nurse Jon Boehringer, Nurse Krisandra	23
15 Miles, Medic Steven Stockhauser,	24
15 and Brenda Garrett Ellis, M.D.	
16	
17	
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20 Dayton, Ohio 45422	
20 on behalf of the Defendant	
21 Montgomery County Sheriff's	
21 Office	
22	
23	
24	

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1 November 18, 2015	1 JOHN MICHAEL CLYMER
2 Wednesday Session	2 Being first duly sworn, as hereinafter
3 3:00 p.m.	3 certified, deposes and says as follows:
3 - - -	4 CROSS-EXAMINTION
4 STIPULATIONS	5 BY MR. DICELLO:
5 It is stipulated by and among counsel for the	6 Q Can you please state your name?
5 respective parties that the deposition of JOHN MICHAEL	7 A Sure. It's John M. Clymer, C-L-Y-M-E-R.
6 CLYMER, the Defendant herein, called by the Plaintiff	8 Q How do you prefer I address you? I understand
6 under the applicable Rules of Civil Procedure, may be	9 you're retired now?
7 taken at this time by the notary Whitney Layne; that said	10 A I am. I am.
7 deposition may be reduced to writing in stenotypy by the	11 Q I've been calling --
8 notary, whose notes thereafter may be transcribed out of	12 A Mike is fine.
8 the presence of the witness; and that the proof of the	13 Q Are you sure?
9 official character and qualification of the notary is	14 A Yeah.
9 waived.	15 Q I've been calling everybody Detective,
10	16 Sergeant.
11	17 A Those days are so far gone.
12	18 Q All right, good. Well, you can call me Nick,
13	19 Mike.
14	20 A Okay.
15	21 Q Do you understand you're here to have your
16	22 deposition taken?
17	23 A Yes.
18	24 Q Ever been deposed before?
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21	
22	
23	
24	

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<p>1 A No.</p> <p>2 Q You understand you're here to have your</p> <p>3 deposition taken in connection with a lawsuit that's been</p> <p>4 filed against some folks at the county sheriff's</p> <p>5 department --</p> <p>6 A Uh-huh.</p> <p>7 Q -- as a result of the death of Robert</p> <p>8 Richardson back in 2012?</p> <p>9 A That is correct.</p> <p>10 Q I'm sure you figured out by now, but I'm the</p> <p>11 lawyer that represents the family and the representatives</p> <p>12 of the deceased, Robert Richardson, okay?</p> <p>13 A Yes.</p> <p>14 Q A couple ground rules that will help us make a</p> <p>15 clean record for the purposes of this deposition as we</p> <p>16 have to try to not talk over one another. She can</p> <p>17 only take down one person at a time, okay?</p> <p>18 A Yes.</p> <p>19 Q You've done a nice job until now, but keep your</p> <p>20 voice up and give me your answers verbally with a yes, no,</p> <p>21 some kind of explanation, as opposed to a shrug, huh-uh or</p> <p>22 uh-huh, okay?</p> <p>23 A Yes.</p> <p>24 Q I don't want you to answer questions today that</p>	<p>1 going to be relying on the information you give;</p> <p>2 understood?</p> <p>3 A Yes.</p> <p>4 Q If at any point in time during this deposition</p> <p>5 you want to take a break, we can do that. Just let me</p> <p>6 know. I would ask that if a question is pending, answer</p> <p>7 the question first, Mike, and then say, "Hey, Nick, let's</p> <p>8 take a break." All right?</p> <p>9 A Okay.</p> <p>10 Q It's also not uncommon that something might jog</p> <p>11 your memory at some point today, and you may remember I</p> <p>12 answered that wrong, or you may remember I forgot to tell</p> <p>13 Nick about that. I want you to take the opportunity today</p> <p>14 to revisit any question I've asked or answer that you've</p> <p>15 given if that should happen, okay?</p> <p>16 A Okay.</p> <p>17 Q You told me you're currently retired from your</p> <p>18 employ at the Montgomery County Sheriff's Office; true?</p> <p>19 A Yes.</p> <p>20 Q When did you retire, sir?</p> <p>21 A February 28th of '15. This year.</p> <p>22 Q How many years did you have in before you</p> <p>23 retired?</p> <p>24 A Thirty.</p>
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<p>1 you don't understand. That's very important, okay?</p> <p>2 A Okay.</p> <p>3 Q So if I ask a question that you don't</p> <p>4 understand, and I may do that, I do it from time to time,</p> <p>5 I want you to let me know.</p> <p>6 A Yes.</p> <p>7 Q If you do answer a question that I've asked,</p> <p>8 I'm going to assume that you understood it. Is that fair?</p> <p>9 A Yes.</p> <p>10 Q You understand you're under oath today?</p> <p>11 A Yes.</p> <p>12 Q Over the course of your career, have you had</p> <p>13 occasion to testify in courtrooms?</p> <p>14 A Yes.</p> <p>15 Q The oath that you're under today is the same</p> <p>16 type of oath that you take when you're in front of a judge</p> <p>17 and jury in a court of law. Do you understand that?</p> <p>18 A I understand.</p> <p>19 Q Do you understand that I'm going to be relying</p> <p>20 on the accuracy of the answers you give me today in</p> <p>21 connection with this lawsuit?</p> <p>22 A Yes.</p> <p>23 Q You understand this is my only chance to ask</p> <p>24 you questions under oath before trial, so that's why I'm</p>	<p>1 Q I saw that your officer number was a lot lower</p> <p>2 than a lot of the other numbers I saw.</p> <p>3 A Yes.</p> <p>4 Q Officer number 98?</p> <p>5 A Yes.</p> <p>6 Q Some of these officer numbers in here are over</p> <p>7 1100.</p> <p>8 A Yes.</p> <p>9 Q So over the course of your career, I want to</p> <p>10 get some understanding, Mike, as to the different</p> <p>11 positions you've held within the sheriff's office.</p> <p>12 A Okay.</p> <p>13 Q So can you take me through that however you</p> <p>14 think is best to walk me through that?</p> <p>15 A Okay. Whether this matters are not, I worked</p> <p>16 at a smaller department prior to going to the sheriff's</p> <p>17 office. I worked there eight and a half years. During</p> <p>18 that period of time, I worked as a patrolman. It was a</p> <p>19 small community. I was also promoted to sergeant for six</p> <p>20 years. I served as interim chief for a period of about</p> <p>21 eight months.</p> <p>22 Q What community is this?</p> <p>23 A New Lebanon.</p> <p>24 Q Ohio?</p>
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<p>1 A Yes. It's in Montgomery County west of Dayton. 2 Q This was a city police force? 3 A Village. It's a town of about 5,500. 4 Q Okay. 5 A In 1985, I joined the sheriff's office, 6 February. During that, my first three years until 1998 I 7 worked as a deputy sheriff in the Montgomery County Jail. 8 Prior to that time, the sheriff's office did not have 9 corrections officers. They had sworn deputies working the 10 jail. 11 Q Okay. 12 A And in 1988, I worked road patrol for several 13 years, I then went back into the jail and worked as a 14 courts officer working trials, security, so on and so 15 forth during that period of time. I also, at the end of 16 that, I can't remember, it was like '91, '92, '93, 17 somewhere in that neighborhood, I went back to road patrol 18 until March of 1997. March of 1997, I went into the 19 Special Investigations Section, Detective Section. I 20 worked in there for 18 years, variety of jobs. I 21 investigated auto thefts for numerous years, I then 22 eventually, for about 14 years, investigated violent 23 crimes, which included the homicides, felonious assaults, 24 adult rapes. And then towards the end, along with doing </p>	<p>1 in the jail. We would go into the transport staging area, 2 pick up prisoners, take them to a docket call. We would 3 also work trials as far as a security, taking someone and 4 handling that. But as far as actually working day-to-day, 5 it would probably -- I'm trying to think. 6 Q Mid to late eighties? 7 A Yeah, late eighties. '88. March of '88, I 8 think. 9 Q Was the jail facility at the same location it 10 is now? 11 A Part of it. 12 Q The old part? 13 A And that's where I worked. I worked in more 14 the linear style jail. We now have the pod system, which 15 I'm familiar with, because I would go in -- at least I'm 16 familiar with the layout, because we would go in, there's 17 interview rooms inside the jail to interview suspects 18 during my time as a detective, and I knew how to get 19 around in the jail. But as far as actually working 20 pulling prisoners, feeding, things of that nature, I 21 never -- you know, I never worked any of that part, never 22 worked any of the camera systems, none of the alarm 23 systems, nothing -- nothing along that line. 24 Q During your 18 years as a detective in the </p>
<p style="text-align: center;">Page 10</p>	<p style="text-align: center;">Page 12</p>

<p>1 Harrison, which is North Dayton, they would handle that 2 district, and handle the auto thefts and things of that 3 nature.</p> <p>4 Q So how often, could you put a number on it, how 5 many investigations you've --</p> <p>6 A A year?</p> <p>7 Q A year that occurred, for something to happen 8 inside the jail.</p> <p>9 A Me personally, probably five to seven, eight.</p> <p>10 Q How many investigations, excluding the one that 11 we're going to talk about today, have you investigated 12 where there was a death that occurred inside the jail?</p> <p>13 A Probably maybe ten.</p> <p>14 Q How many of those involve situations where it 15 was determined, it was never thought to be inmate on 16 inmate?</p> <p>17 A I never had a homicide investigation, which -- 18 which if it's an inmate or inmate and someone dies --</p> <p>19 Q That's a homicide investigation?</p> <p>20 A -- that would be a homicide investigation, 21 because it's not a natural death.</p> <p>22 Q But if somebody dies at the hands of a 23 corrections officer, it's not a homicide investigation?</p> <p>24 A It's based on the -- of how it's ruled and what</p>	<p>1 had deaths.</p> <p>2 Q The Robert Richardson investigation, and I'll 3 ask your specific involvement in a minute, but was that a 4 homicide investigation?</p> <p>5 A It was not.</p> <p>6 Q Why not?</p> <p>7 A It has to do with the manner and the way the 8 death was ruled. There was no evidence that was found, 9 there was no indication from Dr. Casto, who did the 10 autopsy, that there was any trauma to the body, that there 11 was -- there was no cause created by the corrections 12 officers that were involved in that that they did anything 13 improper that caused his death. The death of 14 Mr. Richardson was determined by Dr. Casto to be a 15 cardiac, based on the post-op report. And I attended the 16 autopsy.</p> <p>17 Q I understand you did. While we're kind of 18 talking about this, who made the determinations, some of 19 the things you just said, that nothing the officers did 20 brought about Mr. Richardson's death?</p> <p>21 A It was based on the entire encompassing the 22 whole investigation.</p> <p>23 Q Okay.</p> <p>24 A You know, based on statements that we had,</p>
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<p>1 the evidence shows.</p> <p>2 Q So have you investigated any homicides at the 3 Montgomery County Jail?</p> <p>4 A No.</p> <p>5 Q But you've investigated ten deaths?</p> <p>6 A Yes.</p> <p>7 Q How many of those --</p> <p>8 A That includes suicides.</p> <p>9 Q How many of those were suicides?</p> <p>10 A Probably at least half.</p> <p>11 Q So now we're working our way down. We have 12 about five or six, I'm not holding you to specific 13 numbers.</p> <p>14 A Correct.</p> <p>15 Q But about five or six deaths that were not 16 suicides. Why weren't those considered to be homicide 17 investigations?</p> <p>18 A Suicides?</p> <p>19 Q No, the non-suicide death investigations at the 20 jail.</p> <p>21 A We would have people that just had heart 22 attacks and would die in their cell, older age. It wasn't 23 as a result of trauma. There wasn't anything that could 24 not be explained other than a medical condition that we</p>	<p>1 interviews of inmates, interviews of Marcus Maxwell, who 2 was his --</p> <p>3 Q Cellmate?</p> <p>4 A -- cellmate. Based on Dr. Casto's examination 5 of the body, which is -- which is a large part of the 6 investigation. And to bring forward criminal charges, the 7 Criminal Division of the Montgomery County Prosecutor's 8 Office, the ruling would have to be some sort of a 9 criminal act, just not a death. And that inmates were -- 10 or corrections officers were there is not enough in my 11 years of experience in dealing with the prosecutor's 12 office that would show that anybody caused his death.</p> <p>13 Q Do you know what the manner of death has been 14 ruled to be in Mr. Richardson's case?</p> <p>15 A Manner of death? It was -- It was ruled 16 natural with -- it was a hypertension cardiac event. I 17 know that one of his arteries, the left descending, I 18 believe it was, was 75 percent blockage. Mr. Richardson, 19 based on the information that I received during the early 20 part of my investigation, was he had hypertension, and he 21 also had a blood pressure issue, which he was not being 22 treated for at the jail. I don't know why. I can't 23 answer that. I'm not a -- I'm not the medic. The medical 24 part of that. But I know he wasn't under any kind of</p>

<p>1 medication at that time. So it was ruled by Dr. Casto as 2 a natural death --</p> <p>3 Q Can you stop you there? Because it wasn't. Do 4 you know that? Am I the person informing you now that 5 Dr. Casto did not rule this as a natural death?</p> <p>6 MR. PREGON: Objection.</p> <p>7 Go ahead.</p> <p>8 A Can I look at my report based on what I have?</p> <p>9 I don't have the autopsy report in front of me. Do you?</p> <p>10 BY MR. DICELLO:</p> <p>11 Q I'll represent to you that the autopsy rules 12 this as an accidental death.</p> <p>13 A Okay. Accidental, okay.</p> <p>14 Q So --</p> <p>15 A Then I'm mistaken.</p> <p>16 Q Fair enough. And I know you haven't looked at 17 this stuff in awhile. But at the time you issued your 18 report, you were under the impression that this was ruled 19 a natural death; correct?</p> <p>20 A No, I probably am mistaken. It may say 21 natural, I'm not sure. But I thought I wrote off of -- 22 because I got a copy of Dr. Casto's post-op report.</p> <p>23 Q And I'm sure you've -- you've probably reviewed 24 more autopsy reports than all of us in this room combined,</p>	<p>1 I believe goes to manner of death. And in the report, I 2 believe Dr. Casto wrote that that is caused by his cardiac 3 condition.</p> <p>4 Q Is it your understanding, then, that his 5 atherosclerotic heart disease was accidental? That's not 6 how it works, is it?</p> <p>7 A Well, he had that condition.</p> <p>8 Q Right.</p> <p>9 A Which --</p> <p>10 Q If he died from atherosclerotic heart disease 11 like a lot of people do, that would be a natural cause of 12 death; correct?</p> <p>13 A Right. But that goes to manner, if I recall 14 correctly, in the report.</p> <p>15 Q And the manner of death was accidental.</p> <p>16 A Okay. Then a contributing factor was the heart 17 condition along with, I believe there was also a high 18 level of THC in his system as well.</p> <p>19 Q Correct.</p> <p>20 A Okay.</p> <p>21 Q I'm not trying to be difficult here, I'm just 22 trying to get an understanding from the investigator's 23 standpoint what caused this man's death. Do you know?</p> <p>24 A I would say not based on your -- based on where</p>
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<p>1 BY MR. DICELLO:</p> <p>2 Q Okay.</p> <p>3 A I can't answer that question.</p> <p>4 Q All right. That would be important to know for</p> <p>5 the folks that are making decisions about whether to</p> <p>6 pursue criminal charges; correct?</p> <p>7 A If I knew that or if they knew that? The case</p> <p>8 was not presented to the prosecutor's office.</p> <p>9 Q My question is: Knowing whether or not the</p> <p>10 conduct of the corrections officers contributed to causing</p> <p>11 Mr. Richardson's death, which I think you've told us you</p> <p>12 don't know the answer to that?</p> <p>13 A I don't.</p> <p>14 Q Do we agree that the answer to that question is</p> <p>15 important to know to determine whether or not criminal</p> <p>16 charges are pursued?</p> <p>17 A Based on what I observed back in 2012 from the</p> <p>18 video, based on the reports that I read, based on the</p> <p>19 information concerning the statements from the inmates,</p> <p>20 there was nothing that I observed, read, or saw that the</p> <p>21 officers did anything out of line other than trying to</p> <p>22 control an inmate in the county jail where we are required</p> <p>23 to take care of the safety of the entire population and</p> <p>24 keep control within the facility, that there was nothing</p>	<p>1 MR. PREGON: Objection.</p> <p>2 BY MR. DICELLO:</p> <p>3 Q Did Mr. Richardson accidentally cause his own</p> <p>4 death?</p> <p>5 MR. PREGON: Objection.</p> <p>6 A But we had a medical condition that he was, as</p> <p>7 well.</p> <p>8 BY MR. DICELLO:</p> <p>9 Q I understand. I'm trying to understand --</p> <p>10 What's your understanding of why this was ruled an</p> <p>11 accident if it was just a medical condition that caused</p> <p>12 his death?</p> <p>13 A I would believe an -- I can't answer that</p> <p>14 question.</p> <p>15 Q Okay.</p> <p>16 A But I believe Dr. Casto would be the doctor --</p> <p>17 be the individual. He has the medical background of why</p> <p>18 he made the ruling. He also should have been made, and I</p> <p>19 can't say for sure sitting here today, all the reports and</p> <p>20 all the information concerning the investigation.</p> <p>21 Q I mean, if somebody kills somebody for</p> <p>22 accidentally running a red light, that's ruled an</p> <p>23 accidental death?</p> <p>24 MR. PREGON: Objection.</p>
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<p>1 else there.</p> <p>2 Q I appreciate that. And I know you have a lot</p> <p>3 of years of experience, and I'm sure you have to make</p> <p>4 certain judgment calls in connection with your</p> <p>5 investigation. But, Mike, don't we agree that that's not</p> <p>6 really for you to make that decision as to whether or not</p> <p>7 the corrections officers caused Mr. Richardson's death and</p> <p>8 should be prosecuted for it, is it?</p> <p>9 A My call? It is my call along with my</p> <p>10 supervisors to determine whether or not something goes</p> <p>11 forward that officers are in violation or caused the death</p> <p>12 of him. And there was nothing that was observed, seen,</p> <p>13 investigated that showed that, that indicated that.</p> <p>14 Q I appreciate that. And that was your decision</p> <p>15 at the time. But we have -- you have admitted to me today</p> <p>16 here that based on some of the information I'm explaining</p> <p>17 to you about the autopsy, you don't know whose actions</p> <p>18 caused Mr. Richardson's death; correct?</p> <p>19 MR. PREGON: Objection.</p> <p>20 Go ahead.</p> <p>21 A Nor do we know if any of their actions caused</p> <p>22 his death.</p> <p>23 BY MR. DICELLO:</p> <p>24 Q So why was it ruled an accident?</p>	<p>1 Go ahead.</p> <p>2 BY MR. DICELLO:</p> <p>3 Q Right.</p> <p>4 A There's a violation of law, they ran a red</p> <p>5 light.</p> <p>6 Q Okay.</p> <p>7 A That is a clear violation. We have a witness</p> <p>8 that tells us that car went through the red light or we</p> <p>9 have photographic, whatever, we have to have -- we have</p> <p>10 clear. Based on the scenario you gave me, we have a</p> <p>11 violation of law.</p> <p>12 Q Okay.</p> <p>13 A So therefore, due to their negligence, they</p> <p>14 caused the accident. Someone died as a result of that</p> <p>15 individual violating the law, whether it be a traffic law</p> <p>16 or a, you know, a criminal felony law, caused the death in</p> <p>17 a traffic accident.</p> <p>18 Q So your understanding of this situation is some</p> <p>19 people caused Mr. Richardson's death but it was accidental</p> <p>20 and nobody did anything wrong?</p> <p>21 A I didn't say that they --</p> <p>22 MR. PREGON: Objection.</p> <p>23 A I didn't say that no one -- I'm sorry. Can you</p> <p>24 restate that question?</p>
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<p>1 BY MR. DICELLO:</p> <p>2 Q Yeah.</p> <p>3 A Yeah.</p> <p>4 Q Because you and I seem to know what the meaning of accidental is in a manner of death ruling; correct?</p> <p>5 A Intent.</p> <p>6 Q Is that how you interpret it?</p> <p>7 A An accident is -- If you intend to do something, it's not an accident. It's not an accident.</p> <p>8 Q But an accident means that people's actions caused the death; correct?</p> <p>9 MR. PREGON: Objection.</p> <p>10 A Well, absolutely. It's very important.</p> <p>11 Q So the coroner can come up with natural, accident, suicide, homicide, or could not be determined; right?</p> <p>12 A Undetermined, correct.</p> <p>13 Q Right? So in this case it wasn't natural, it wasn't due solely or nearly totally to disease; did you understand that?</p> <p>14 A Correct.</p> <p>15 Q So there was something other than just his heart disease that caused his death; correct?</p> <p>16 MR. PREGON: Objection.</p> <p>17 A I don't know that. I mean -- I guess you have to look at what the doctor said.</p>	<p>1 MR. PREGON: Objection.</p> <p>2 Go ahead.</p> <p>3 A You were asking whether or not I am saying --</p> <p>4 BY MR. DICELLO:</p> <p>5 Q Let me ask you: When you're reviewing manners of deaths in -- because I think what you told me is a big part of the investigation, in terms of which direction it's going to head, is based on the coroner's finding as to the manner of death; correct? That's what you said earlier?</p> <p>6 A Well, absolutely. It's very important.</p> <p>7 Q So the coroner can come up with natural, accident, suicide, homicide, or could not be determined; right?</p> <p>8 A Undetermined, correct.</p> <p>9 Q Right? So in this case it wasn't natural, it wasn't due solely or nearly totally to disease; did you understand that?</p> <p>10 A Correct.</p> <p>11 Q So there was something other than just his heart disease that caused his death; correct?</p> <p>12 MR. PREGON: Objection.</p> <p>13 A I don't know that. I mean -- I guess you have to look at what the doctor said.</p>
<p>Page 26</p> <p>1 Q Go ahead, I'm still listening. Sorry.</p> <p>2 A The intent -- Okay. I'm -- The intent has to be there when you're looking at -- or a negligence in your actions caused the injury. And based on the information that we had at the time, nothing showed that the officers were negligent in their duties.</p> <p>3 Q Okay. Bear with me one second here. Sorry. Try to bring all the documents with you, but you always forget something.</p> <p>4 The CDC issues a manual for medical examiners. In fact, it's the National Association of Medical Examiners that defines these terms.</p> <p>5 A Okay.</p> <p>6 Q Okay? Natural is defined as "due solely or nearly totally to disease and/or the aging process." Is that consistent with your understanding of what natural is as a ruling of a manner of death?</p> <p>7 A I guess. I mean, I can tell you I've never read that or seen that.</p> <p>8 Q And then there's accident. "There is little or no evidence that the injury or poisoning occurred with intent to harm or cause death. In essence, the fatal outcome was unintentional." Is that the concept you were kind of trying to say?</p>	<p>Page 28</p> <p>1 BY MR. DICELLO:</p> <p>2 Q And I'll have a chance to ask the doctor these questions, but I'm asking you, and you were in the room when the autopsy was performed, and you spoke with the coroner and reviewed his results in connection with your investigation. So I'm really interested in what your understanding is about the coroner's ruling here. And we know the coroner didn't rule it as natural. And the definition for natural is due solely or nearly totally to disease or the aging process. We know he didn't die from old age?</p> <p>3 A That is correct.</p> <p>4 Q Okay.</p> <p>5 A We know that.</p> <p>6 Q And because it wasn't ruled natural, we know Mr. Richardson didn't die solely or near little totally as a result of his heart disease; correct?</p> <p>7 MR. PREGON: Objection.</p> <p>8 BY MR. DICELLO:</p> <p>9 Q Because that's what the definition is. I'm showing you my phone.</p> <p>10 A I understand what you're saying. What I'm saying is what his report -- what his report said was it was a cardiac event that caused his death.</p>

<p>1 Q What caused the cardiac event?</p> <p>2 A We don't know that.</p> <p>3 Q Well, we know it wasn't due to natural causes, don't we?</p> <p>4 A We also know due to the --</p> <p>5 Q Can you answer my question?</p> <p>6 A I'm sorry.</p> <p>7 Q We know that it wasn't due to natural causes; correct?</p> <p>8 MR. PREGON: Objection.</p> <p>9 A Well, he had a disease. He had a cardiac disease.</p> <p>10 BY MR. DICELLO:</p> <p>11 Q Correct.</p> <p>12 A He did have that. I understand that.</p> <p>13 Q And if he died from his cardiac disease, it would be ruled a natural death?</p> <p>14 A That is correct.</p> <p>15 Q But it wasn't ruled a natural death, was it?</p> <p>16 A That's correct.</p> <p>17 Q So it wasn't just his cardiac disease that caused Mr. Richardson's death, was it?</p> <p>18 A And again, it says, based on my report, and what I recall what was in my report, was it was a sudden</p>	<p>1 not reviewed.</p> <p>2 Q And I appreciate that. And I know that's the sum and substance of your investigation. You looked at a lot of different things, and I understand that. I'm really trying to focus on one component, and that is the manner in which Mr. Richardson died and how that affected your assessment of the situation, okay?</p> <p>3 A (Nods head.)</p> <p>4 Q And we've gone through the definitions, we know the coroner didn't rule this a natural death. I think you've agreed with me then we know this death didn't occur solely as a result of Mr. Richardson's heart disease or the medical condition that he was dealing with, correct?</p> <p>5 A I can't say that I know that, that I totally --</p> <p>6 I know that there was a medical something occurred, which</p> <p>7 caused him to go into seizure mode, which caused him to</p> <p>8 need medical attention, where eventually CPR was</p> <p>9 performed, or attempted to be performed.</p> <p>10 Q So based on the definition of accident that I've read to you --</p> <p>11 A Okay.</p> <p>12 Q -- what is the injury that occurred without intent to harm or cause death; do you know?</p> <p>13 A The injury that occurred?</p>
<p style="text-align: center;">Page 30</p> <p>1 cardiac event. And based on the information, we also had</p> <p>2 an event that occurred prior to the officers getting</p> <p>3 involved. Mr. Richardson went to the floor, and this is</p> <p>4 according to Mr. Maxwell, went to the floor, and went into</p> <p>5 what he used the term "seizure mode."</p> <p>6 Q Yeah.</p> <p>7 A Which based on the way Mr. Maxwell -- And I</p> <p>8 interviewed Mr. Maxwell. Based on the way -- There was</p> <p>9 some sort of a health, some sort of a medical condition</p> <p>10 that occurred which caused him to summons help where the</p> <p>11 corrections officers came, the medical staff came to</p> <p>12 assist Mr. Richardson.</p> <p>13 Q Yeah.</p> <p>14 A So it wasn't -- The event occurred prior to</p> <p>15 officers being involved --</p> <p>16 Q Okay.</p> <p>17 A -- with him.</p> <p>18 Q Okay.</p> <p>19 A Okay? So there was a medical condition going</p> <p>20 on. That is a factor in me determining my determination</p> <p>21 -- me determining, that doesn't even sound right.</p> <p>22 Q Yeah, it does.</p> <p>23 A The determination made through not only the</p> <p>24 evidence, the video, everything that we had, that it was</p>	<p style="text-align: center;">Page 32</p> <p>1 Q Yeah.</p> <p>2 A Well, what injury did he have?</p> <p>3 Q I'm asking you.</p> <p>4 A I don't know. He didn't have any injuries.</p> <p>5 Q Okay. So do you know why this was ruled an accident?</p> <p>6 A I can't say, no.</p> <p>7 Q Who contacted you to involve you in this investigation?</p> <p>8 A Sergeant Stevens.</p> <p>9 Q Was Sergeant Stevens your supervisor?</p> <p>10 A No, she -- she is assigned -- she's -- she may</p> <p>11 have been filling in that day for Sergeant Hutchinson.</p> <p>12 Sergeant Hutchinson at that time was my direct supervisor.</p> <p>13 Sergeant Stevens previously worked in the section and was</p> <p>14 my direct supervisor, but she works with another set of</p> <p>15 detectives, our Sexual Oriented Offenders Program, but --</p> <p>16 so therefore, she kind of fills in when Sergeant</p> <p>17 Hutchinson is not available or not working that day.</p> <p>18 Q When you arrived at the jail and got your bearings on March 19th, 2012, did you go about investigating this as a potential homicide?</p> <p>19 A That is one thing that we consider. We -- We</p> <p>20 had a death in the jail. It's investigated as a death.</p>

<p>1 And at that point in time, we look at all of the evidence. 2 So I guess at that point, to answer your question, 3 everything is on the table. 4 Q So this should have been investigated as a 5 potential homicide; true? 6 A I didn't say "should have." It's things that 7 we consider. We have to see the entire -- it encompasses 8 everything. 9 Q Okay. 10 A I didn't know what his medical condition was. 11 I did not know whether or not there -- There -- We -- I 12 know that there was no trauma. There was no blood. There 13 was no sign of blunt force trauma. Nothing of that. 14 Q Yeah. Let me ask you this: As of May 19th of 15 2012, did you know whether or not prone restraint is 16 prohibited in the State of Ohio? 17 MR. PREGON: Objection. 18 Go ahead. 19 A No, I did not. 20 BY MR. DICELLO: 21 Q Did you know whether or not the governor had 22 issued an executive order banning prone restraint at the 23 time you were investigating this death? 24 A No, I did not.</p>	<p>1 MR. PREGON: Objection. 2 A If you're listening carefully, then that's what 3 you heard. 4 BY MR. DICELLO: 5 Q And if the policies and procedures in fact said 6 that the use of prone restraint is unacceptable and 7 prohibited, that should have been something you considered 8 in your investigation; true? 9 A Again, I didn't handle the policies and 10 procedures. I looked at the actions of the officers from 11 the criminal aspect of it. 12 Q Well, how are you evaluating the actions of the 13 officers if you don't know what rules their conduct is 14 governed by? 15 A I didn't know that that was a -- I didn't know 16 that there was an executive order. 17 Q Okay. 18 A That's the best answer I can give you. 19 Q Fair enough. 20 When you got to the jail, who did you report 21 to? 22 A Well, I met with Sergeant Stevens. 23 Q Okay. 24 A She was still on the scene.</p>
<p style="text-align: center;">Page 34</p>	<p style="text-align: center;">Page 35</p>

<p>1 A Yes.</p> <p>2 Q Have you ever been involved in any situation</p> <p>3 where the Montgomery County Sheriff's Office followed that</p> <p>4 same approach, where they brought in an independent</p> <p>5 outside agency to investigate the death of a member of the</p> <p>6 public?</p> <p>7 A Not that I'm aware of.</p> <p>8 Q Do you think that that was a good practice, the</p> <p>9 times that you were brought in as an outside agency not</p> <p>10 affiliated with the individual who was being investigated?</p> <p>11 Do you think that was a good practice to maintain</p> <p>12 independence in the investigation?</p> <p>13 A For when I was brought in?</p> <p>14 Q Yeah.</p> <p>15 A I think -- To say that it was proper, a lot of</p> <p>16 it has to do with the manpower involved. They were</p> <p>17 smaller agencies, not the size of the sheriff's office.</p> <p>18 The larger agencies within the Dayton area, based on my</p> <p>19 experience, the larger agencies take care of -- they</p> <p>20 investigate, they have their own ISU personnel, they have</p> <p>21 -- which is the Internal Affairs or Inspectional Services</p> <p>22 is what we call it. I worked -- I did my investigations</p> <p>23 for smaller departments, departments of ten to 15, 20</p> <p>24 officers. And --</p>	<p>1 Because I'm -- like I said, I'm not sure if he was</p> <p>2 actually there when I got there, which was about an hour</p> <p>3 after the -- after I was contacted. We were gone -- I was</p> <p>4 gone for the day. Our normal day of work would have been</p> <p>5 until 4:00. It was like 4:30 when I was contacted. So I</p> <p>6 had to get dressed, come back in, so on and so forth. So</p> <p>7 Captain Crosby was there, but he didn't brief me. I</p> <p>8 talked to Sergeant Lewis, which is common practice, you</p> <p>9 contact the first line supervisors for the most part. And</p> <p>10 then at that point in time, we started -- I knew that I</p> <p>11 was told that Mr. Richardson had already been removed to</p> <p>12 the coroner's office, the evidence technician was there</p> <p>13 photographing, and there were -- the inmates obviously</p> <p>14 were still there. So interviews began. Some of the</p> <p>15 interviews had already been done. Sergeant Stevens had</p> <p>16 done some of that. And then we just started -- I started</p> <p>17 the investigation based on what I had.</p> <p>18 Q Were you the lead investigator into</p> <p>19 Mr. Richardson's death?</p> <p>20 A The case was assigned to me, that is correct.</p> <p>21 Q And at the time that you started your</p> <p>22 investigation, what were the goals of the investigation?</p> <p>23 What questions was it intended to answer?</p> <p>24 A I wouldn't say they were goals. I would say</p>
<p style="text-align: center;">Page 38</p>	<p style="text-align: center;">Page 40</p>

<p>1 BY MR. DICELLO:</p> <p>2 Q Yeah.</p> <p>3 A For me to sit here and tell you "I'm going to charge you and arrest you for homicide," I would be totally out of line. How can I -- I can't sit here today based on those facts and make that determination. I mean, that's not -- that's not my call. But based on, until a thorough investigation is complete. But we -- But there's a little -- No, go ahead. I'm sorry.</p> <p>10 Q That's all right. I'm just trying to get an understanding of why this investigation is performed and what's going to happen with it once it's done. Can you answer those questions?</p> <p>14 A If there's criminal activity that warrants it being sent to the Montgomery County Prosecutor, it is reviewed with the prosecutor's office.</p> <p>17 Q So was that the intention of your investigation, to determine whether or not this situation should be presented to the prosecutor, or was it just to find out what happened?</p> <p>21 A Well, that's always -- that's always an option. That's always an option, you know. If criminal activity is involved, then it is -- it is presented. If we have enough evidence to present to the prosecutor's office,</p>	<p>1 MR. PREGON: Can I have a continuing on that?</p> <p>2 MR. DICELLO: Is it relevance based?</p> <p>3 MR. PREGON: Yeah.</p> <p>4 MR. DICELLO: Yeah. Those objections are preserved. But go ahead.</p> <p>6 A Three or four.</p> <p>7 BY MR. DICELLO:</p> <p>8 Q Any of those stem from any deaths in the jail?</p> <p>9 A No.</p> <p>10 Q Any of those stem from any deaths at all?</p> <p>11 A No.</p> <p>12 Q I'm going to rely on your narrative report here. I've had the chance to depose Detective Conley. I think he assisted you in interviewing some people?</p> <p>15 A Yes.</p> <p>16 Q And Detective Conley told me he started interviewing people that night, May 19th, 2012, at the jail. Is that what you did?</p> <p>19 A Yes.</p> <p>20 Q And you told me you worked all day and then you had to come in and probably work a big part of the night; huh?</p> <p>23 A Yes. Well, I don't know.</p> <p>24 Q That was part of the job?</p>
<p style="text-align: center;">Page 42</p>	<p style="text-align: center;">Page 44</p>

<p>1 Q The first question was did you write down 2 everything all the witnesses stated, and your answer was 3 no? 4 A No. 5 Q And the second question is: Is it possible to 6 write down everything a witness said when you interviewed 7 them? 8 A No. 9 Q So we have to rely on the notes you took as 10 writing down what you felt was important; correct? 11 A That is correct. 12 Q I presume you took notes of what people were 13 telling you happened? 14 A Yes. 15 Q Did you keep those notes? 16 A I don't believe so. And the reason, once my 17 supplemental report is completed, the notes are destroyed. 18 Q Why? 19 A It's common practice. 20 Q Why would you destroy your contemporaneous 21 notes of what witnesses say they saw when you're 22 investigating a death of a 28-year-old member of the 23 public? 24 A Because that's our common -- that's my common</p>	<p>1 A That's when the report was entered. Okay. 2 BY MR. DICELLO: 3 Q Help me out here. 4 A I will. I'll explain to you how we do our 5 reports -- 6 Q Okay. 7 A -- or how I did my report. The report, we have 8 an overall system called the Tiburon system, okay? All 9 offense reports, all reports go through that system. When 10 that is done, the original is made, it's entered, we start 11 a report. From that point forward, supplemental reports 12 are done and added to it. My supplement was number five, 13 okay? 14 Q Yep. 15 A Now, I can't tell you the date that I started 16 my report, because I started my report on Word, okay? The 17 reason that we do that is because the entire department or 18 anybody that has the opportunity can pull this report up 19 and review where the investigation is, okay? So 20 therefore, as a safeguard, for my supplemental report, I 21 put it on Word. And then as things progress, which again 22 I added to that different dates such as with the death 23 certificate, which was in June 7th of '12, and then on the 24 26th of June, Dr. Casto sent me a copy of the postmortem</p>
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<p>1 practice. Once I generate a report, the notes are no 2 longer needed. The case was closed. 3 Q By looking at the report -- And I think yours 4 is at MC 1271 in Plaintiff's Exhibit 1 there, Mike. 5 MR. PREGON: It's at the bottom corner. 6 BY MR. DICELLO: 7 Q Yeah, there's some numbers, Bates numbers at 8 the bottom there. 9 A There it is. Okay. 10 Q Based on looking at this, can you tell me when 11 you completed this narrative Investigative Supplemental 12 Report? 13 A When it was completed? Well, on the date it 14 says, 9-6 of '12 down at the bottom, where my name is. 15 Q Well, that says the date it was printed? 16 A Printed, correct. 17 Q I want to know the date that you completed 18 this. When did you type it into the computer? And I 19 think that looks to be September 5th, 2012 at 7:45 a.m. 20 A I'm looking at -- Which one are you looking at? 21 MR. PREGON: Look at the first page. 22 BY MR. DICELLO: 23 Q Yeah, the first page. 24 MR. PREGON: Right there.</p>	<p>1 examination. So it is as -- it's an ongoing report. I 2 will start, I will put my -- and then I will add to. Then 3 when the report is completed, it's then at that point in 4 time that I generate the supplement in the Tiburon. It 5 doesn't mean my report, I haven't been typing it and 6 staying on top of it, it just means that I, on that day, 7 September 5th, I generated and started supplement number 8 five in the Tiburon system. 9 Q Okay. 10 A So -- 11 Q So do you keep a copy of your Word reports? 12 A No. It's cut and pasted and sent over. I 13 review it prior to approving it, it's been -- once it's 14 approved by me, it's then an approved by the supervisor, 15 which I believe would have been Sergeant Hutchinson, was 16 my supervisor at the time, and -- 17 Q What happens to the Word version of your 18 reports? 19 A It's deleted. Because it's the same report. 20 It's cut and pasted. 21 Q Now, between June 26th of 2012 and 22 September 5th of 2012, was there any documentation of you 23 having done anything on this investigation? 24 A Is there any documentation? No.</p>
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<p>1 Q Based on reviewing your report, did you do 2 anything between June 26th, 2012 and September 5th? 3 A During -- I know that after June 26th there was 4 some additional testing based on the supplement by -- 5 after we received the toxicology report. There was some 6 additional testing don't by Dr. Marinetti, which went to 7 the level of THC in Mr. Richardson's body. So when that 8 was completed, and I got that result, sometime in that 9 point, that's when I -- I put that in the report. And 10 then ultimately I completed and entered it, what was it, 11 September something. 12 Q Okay. Bear with me just a moment. 13 It sounds to me like you interviewed -- Did you 14 interview the people in the order as they're listed in 15 your report, meaning the first person you interviewed, was 16 that Mr. Maxwell? 17 A I know that that was the first inmate that I 18 interviewed. 19 Q All right. 20 A Yes. 21 Q And Mr. Maxwell, as you've already told us, he 22 described what he perceived as looked like Mr. Richardson 23 was having a seizure inside the cell, correct, went into 24 seizure mode like you said?</p>	<p>1 you, Gary Edmond, you interviewed him and he told you he 2 could hear Mr. Richardson saying, "Let me up, let me up"; 3 correct? 4 A That is correct. 5 Q Also, Billy Carpenter told you that he observed 6 Mr. Richardson being pinned down by four, five or six 7 corrections officers and putting handcuffs on 8 Mr. Richardson; correct? 9 A That is correct. 10 Q Mr. Carpenter told you he heard Mr. Richardson 11 yell several times, "Let me up"; correct? 12 A Correct. 13 Q Mr. Lewis, you interviewed him, and he said he 14 didn't see anything -- well, actually he said he was 15 trying to watch it on the reflection of the TV screen, but 16 he did hear someone saying, "Get off of me, get off of 17 me"; correct? 18 A Yes. 19 Q You interviewed Mr. Kylon Lorenzo, and he told 20 you he heard someone saying, "Please stop, please stop"; 21 correct? 22 A Yes. 23 Q You interviewed Mr. Gage Hurlburt, and among 24 other things -- I'm sorry, you interviewed Mr. Jessie</p>
<p style="text-align: center;">Page 50</p> <p>1 A Seizure mode, yes, that's how he described it 2 to me. And that's the reason, I believe, I don't see it 3 right here, because I probably have it out of order, I 4 think I had that in quotations, if I'm not mistaken. 5 Q Yeah, "seizure mode." 6 A Okay. 7 Q According to Mr. Maxwell, Mr. Richardson was 8 moving and saying, "Get off of me," but he was not aware 9 of what was going on. Is that what Mr. Maxwell told you? 10 A He told me -- Okay. You said that he said "Get 11 off of me," not aware of his circumstances. That was -- 12 Yeah. He told me that he kind of went out, did the 13 seizure mode, then he woke -- when he kind of like woke up 14 or came to, whatever, he had a blank stare and wasn't -- 15 didn't appear to be understanding where he was at. 16 Q Yeah. 17 A Okay. 18 Q Mr. Maxwell told you, among other things, he 19 said the COs kept the deceased on his stomach restraining 20 him in handcuffs behind his back. That's what Mr. Maxwell 21 told you? 22 A That's exactly -- That's what I have in my 23 report, yes. 24 Q And some of the things the other inmates told</p>	<p style="text-align: center;">Page 52</p> <p>1 Hubbs at the third page of your report, and he told you, 2 among other things, that Mr. Richardson was pulled out of 3 his cell and was being held down on the ground; correct? 4 A Yes. 5 Q You interviewed Mr. Brandon Webb, and he stated 6 that he observed officers holding someone down; correct? 7 A Yes. 8 Q You interviewed Mr. Morris, and he said he 9 heard corrections officers telling Mr. Richardson to stay 10 down on the ground; correct? 11 A Yes. 12 Q You interviewed Mr. Sowards, and he said he 13 heard someone yelling "Get off of me" approximately six 14 times and he heard some moaning and groaning, that's some 15 information you had in your investigation; correct? 16 A Yes. 17 Q You interviewed Mr. Scott Reynolds, and 18 Mr. Reynolds told you, among other things, that 19 Mr. Richardson continued to be held facedown, but he was 20 saying, "Let me up, I can't breathe"; correct? 21 A Yes. 22 Q And you reviewed the video as well; true? 23 A Yes. 24 Q And do we agree that at times -- Well, we agree</p>

<p>1 Mr. Richardson is handcuffed behind his back?</p> <p>2 A I will tell you this. I watched the video</p> <p>3 within the first five to six days of the incident. I do</p> <p>4 know that he was handcuffed or restrained. For me to sit</p> <p>5 here and say we agree -- I know that he was restrained, I</p> <p>6 know that he was handcuffed, and based on all the</p> <p>7 witnesses, they tell me he was handcuffed behind his back.</p> <p>8 Q Do you have any reason to question that?</p> <p>9 A I don't.</p> <p>10 Q Okay.</p> <p>11 A But I haven't reviewed the video in almost</p> <p>12 three years.</p> <p>13 Q All right. Did you also understand -- Well,</p> <p>14 based on your review of the video, Mr. Richardson was</p> <p>15 facedown on the ground; correct?</p> <p>16 A Yes.</p> <p>17 Q Let me ask a follow-up question. Do you</p> <p>18 remember at times Mr. Richardson appeared to be rolled</p> <p>19 onto his right side?</p> <p>20 A He was moved, absolutely, yes, uh-huh.</p> <p>21 Q And then there were other times when</p> <p>22 Mr. Richardson was lying facedown on the ground; correct?</p> <p>23 A Yes.</p> <p>24 Q With both his shoulders on the ground and his</p>	<p>1 Q Is it your understanding that during that</p> <p>2 entire time Mr. Richardson was on the ground?</p> <p>3 A He never got up to his feet, that is correct.</p> <p>4 Q Is it your understanding that he was trying to</p> <p>5 get up?</p> <p>6 A I can't say that.</p> <p>7 Q You didn't investigate this to try to determine</p> <p>8 whether or not Mr. Richardson was held in prone restraint,</p> <p>9 did you?</p> <p>10 A No.</p> <p>11 Q Do you know if anyone up to this day has ever</p> <p>12 investigated this situation to determine whether or not</p> <p>13 Mr. Richardson was held in prone restraint?</p> <p>14 A I do not.</p> <p>15 Q You didn't do that; correct?</p> <p>16 A Not specifically, no.</p> <p>17 Q And you're not aware of anyone else who did;</p> <p>18 true?</p> <p>19 A That is correct.</p> <p>20 Q So no one has done that yet. Fair to say the</p> <p>21 jury will be the first people who evaluate whether or not</p> <p>22 Mr. Richardson was held in prone restraint?</p> <p>23 MR. PREGON: Objection.</p> <p>24 Go ahead.</p>
<p style="text-align: center;">Page 54</p>	<p style="text-align: center;">Page 55</p>

<p>1 manual's restraint policies at any time during this 2 investigation; correct?</p> <p>3 A I don't.</p> <p>4 Q You didn't?</p> <p>5 A I didn't, and I don't. We have our -- It's an 6 independent investigation is conducted along with mine. 7 And that is done by the Inspectional Services Unit.</p> <p>8 Q So do you know who was investigating whether or 9 not the policies and procedures were followed?</p> <p>10 A I cannot tell you. Someone within our 11 Inspectional Services, and I don't know who was assigned 12 to that unit at that time.</p> <p>13 Q Is that SIU, or is this something different 14 now?</p> <p>15 A No, it's Inspectional Services. It's like 16 Internal Affairs. It's the same thing. It's just our -- 17 It's the -- It's the unit that investigates policies and 18 procedures.</p> <p>19 (Exhibit No. 2 marked for identification.)</p> <p>20 BY MR. DICELLO:</p> <p>21 Q I'm handing you what's been marked as 22 Plaintiff's Exhibit 2.</p> <p>23 MR. DICELLO: I might have a couple copies of 24 these, guys, but maybe not. Oh, I've got copies for</p>	<p>1 Q When I hear the words "risk management review," 2 in my mind it sounds like somebody is performing an 3 investigation to see whether or not the officers, the 4 sheriff's office, has any liability. Is that how you read 5 this?</p> <p>6 MR. PREGON: Objection.</p> <p>7 A I guess that would be your opinion --</p> <p>8 BY MR. DICELLO:</p> <p>9 Q Yeah.</p> <p>10 A -- of that word.</p> <p>11 Q I'm asking yours.</p> <p>12 A Well, I'm telling -- again, why it's entitled 13 risk management, I don't know. I really don't.</p> <p>14 Q That's okay.</p> <p>15 A I understand what risk is.</p> <p>16 Q I appreciate that. Does the Montgomery County 17 Sheriff's office have a risk management committee that you 18 know of?</p> <p>19 A Not that I'm aware of.</p> <p>20 Q Is there a risk manager employed by the 21 Montgomery County Sheriff's Office if you know?</p> <p>22 A Not that I'm aware of.</p> <p>23 Q If you turn to page 11 of this report, this is 24 MC 1728. You see this is signed by the sheriff himself;</p>
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<p>1 word, and forgive me, okay, but used the word "nigger" --</p> <p>2 A Yes.</p> <p>3 Q -- we agree Sergeant Flanders has no business</p> <p>4 investigating the death of a black man in a jail, does he?</p> <p>5 MR. PREGON: Objection.</p> <p>6 A Not my call.</p> <p>7 BY MR. DICELLO:</p> <p>8 Q I'm asking you as a man.</p> <p>9 A That is inappropriate, absolutely.</p> <p>10 Q Robert Richardson's family members deserved</p> <p>11 better; agreed?</p> <p>12 MR. PREGON: Objection.</p> <p>13 A Deserved better as far as?</p> <p>14 BY MR. DICELLO:</p> <p>15 Q Than having Sergeant Tom Flanders investigate,</p> <p>16 perform a risk management review investigation into their</p> <p>17 son's death.</p> <p>18 MR. PREGON: Objection.</p> <p>19 Go ahead.</p> <p>20 BY MR. DICELLO:</p> <p>21 Q You know he's black; right? You understand?</p> <p>22 A Well, absolutely.</p> <p>23 Q And Sergeant Flanders is white?</p> <p>24 A Yes.</p>	<p>1 Sheriff Plummer terminated him. He was a captain at that</p> <p>2 time.</p> <p>3 So based on that, Sheriff Plummer felt that he</p> <p>4 was inappropriate and not the person to be working as a</p> <p>5 captain on his department. But as far as his ability to</p> <p>6 conduct the investigation in May of 2012, I can't tell you</p> <p>7 that.</p> <p>8 BY MR. DICELLO:</p> <p>9 Q Do you agree that Mr. Richardson's family, and</p> <p>10 Mr. Richardson himself, were entitled to an unbiased</p> <p>11 investigation?</p> <p>12 A Everybody --</p> <p>13 MR. PREGON: Objection.</p> <p>14 A That is correct. And that's -- that was my</p> <p>15 goal and has been for -- and was for 38 years.</p> <p>16 BY MR. DICELLO:</p> <p>17 Q Did you investigate at all how it was that</p> <p>18 Mr. Richardson had the level of marijuana in his system</p> <p>19 that was found?</p> <p>20 A No.</p> <p>21 Q Based on -- it sounds to me like based on your</p> <p>22 discussions with Dr. Marinetti, Dr. Marinetti opined to</p> <p>23 you that Mr. Richardson ingested marijuana sometime within</p> <p>24 six hours of his death?</p>
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<p>1 Q Is that standard practice?</p> <p>2 A Yes.</p> <p>3 Q Was anybody from Mr. Richardson's family</p> <p>4 invited to attend the autopsy?</p> <p>5 A No.</p> <p>6 Q So why is it that you're given permission to</p> <p>7 attend the autopsy and the family isn't?</p> <p>8 A Because it's my --</p> <p>9 MR. PREGON: Objection.</p> <p>10 Go ahead.</p> <p>11 A Because it's my investigation. Because I</p> <p>12 wanted to see, and I go for all homicides and deaths to</p> <p>13 determine -- to actually be able to see what the injuries</p> <p>14 are, if any, and whatever the doctor found.</p> <p>15 BY MR. DICELLO:</p> <p>16 Q Were you ever interviewed by anybody from</p> <p>17 Internal Affairs?</p> <p>18 A No.</p> <p>19 Q Were you ever interviewed by anybody who was</p> <p>20 performing any other kind of investigations into this</p> <p>21 death?</p> <p>22 A No.</p> <p>23 MR. PREGON: Are we at a good break point?</p> <p>24 MR. DICELLO: Yeah, and I'm almost done. I'm</p>	<p>1 A No.</p> <p>2 BY MR. DICELLO:</p> <p>3 Q There's an approving officer of number 138. Do</p> <p>4 you know who that is?</p> <p>5 A That is Sergeant Hutchinson.</p> <p>6 Q Sergeant Hutchinson. Did Sergeant Hutchinson</p> <p>7 work in the jail as of May of 2012?</p> <p>8 A No, he did not.</p> <p>9 Q What division or unit was --</p> <p>10 A He was my direct supervisor.</p> <p>11 Q In Special Investigations?</p> <p>12 A Special Investigations. Sergeant Stevens</p> <p>13 called me in, because she -- I don't know where Hutch was,</p> <p>14 I don't know if he was off that day, I don't recall. I</p> <p>15 don't know if he was not available, I don't know.</p> <p>16 Q So you told me you entered this report into the</p> <p>17 Tiburon system, and then apparently, was it Sergeant</p> <p>18 Hutchinson?</p> <p>19 A Yes.</p> <p>20 Q Sergeant Hutchinson becomes aware of it through</p> <p>21 the computer somehow. Is that how it works?</p> <p>22 A Yes.</p> <p>23 Q And it looks like Sergeant Hutchinson approved</p> <p>24 this report on September 6th, 2012, the day after it was</p>
<p style="text-align: center;">Page 66</p>	<p style="text-align: center;">Page 68</p>

<p>1 Q I mean, it says on page three, it says "status 2 closed."</p> <p>3 A Closed. The case was closed.</p> <p>4 Q Who closed it, you?</p> <p>5 A Yes.</p> <p>6 Q I just want to review my notes. And I was 7 doing that while you were out, see if I have anything else 8 for you.</p> <p>9 MR. DICELLO: Carrie, do you have any 10 questions?</p> <p>11 MS. STARTS: No.</p> <p>12 MR. DICELLO: All right.</p> <p>13 BY MR. DICELLO:</p> <p>14 Q Did you interview the officers?</p> <p>15 A I did not.</p> <p>16 Q Did anyone?</p> <p>17 A Not that I'm aware of.</p> <p>18 Q Why not?</p> <p>19 A Their report stands on what they -- what they 20 documented. If there was follow-up investigation, it 21 would have been done based on what we observed. Their 22 actions were observed on the video, okay? So therefore, 23 nothing came to light that showed a necessity to interview 24 them.</p>	<p>1 said, "Well, the officers completed narrative reports." 2 So I sense from your answer that there was no need to 3 interview because they completed a narrative report. 4 Well, so did all the medical people that were interviewed. 5 So why were they interviewed even though they filled out 6 reports and the officers weren't?</p> <p>7 A My practice -- I can't tell you why Detective 8 Conley interviewed the medical staff, okay? I interviewed 9 Boehringer because he was the first medic on the scene, I 10 believe, and he helped with the CPR. I was looking to see 11 whether or not -- what he observed, so that I would have a 12 better understanding from Mr. Richardson's actions, 13 because I was going to the autopsy report, the autopsy the 14 next morning. So if there was something there that he saw 15 in Mr. Richardson's actions, I could report that to 16 Dr. Casto.</p> <p>17 Q Okay.</p> <p>18 A So therefore, it could be something that would 19 aid him upon conducting the autopsy. And that has a lot 20 to do with why we go to autopsies, okay? We have -- That 21 way we can see with our eyes, prior to the report -- 22 Because the report takes six to eight weeks to be 23 completed. He can call me on the phone. But if we have 24 conversation standing there -- And that's the reason I --</p>
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<p>1 Q Some of the medical folks, they completed the 2 same kind of reports as the corrections officers; correct?</p> <p>3 A Yes. It's all part of the jail incident 4 report.</p> <p>5 Q But the medical personnel were interviewed by 6 Detective Conley; true?</p> <p>7 A Oh, I interviewed --</p> <p>8 Q You interviewed?</p> <p>9 A -- Boehringer.</p> <p>10 Q You interviewed Boehringer. And we just had 11 Detective Conley in here, and Detective Conley told me, 12 his report is just before yours, Detective Conley 13 interviewed Medic Stockhauser, LPN Kassandra Miles, 14 interviewed LPN Kristy Kruse, interviewed Nurse Felicia 15 Foster; correct?</p> <p>16 A Yes.</p> <p>17 Q Those folks all filled out narratives in the 18 incident report just like the corrections officers; 19 correct?</p> <p>20 A Correct.</p> <p>21 Q So why were they interviewed by the sheriff's 22 office folks who were investigating this death and the 23 officers were not interviewed? The reason I'm asking is 24 because I asked you this question once before and you</p>	<p>1 I specifically interviewed -- is it Mr. Boehringer?</p> <p>2 Q Boehringer.</p> <p>3 A Boehringer, yeah.</p> <p>4 Q But as far as why Detective Conley interviewed 5 all the medical personnel, even though they had filled out 6 the same reports that the COs filled out, you don't know 7 why that was done?</p> <p>8 A I don't.</p> <p>9 Q You understand there's an appearance that the 10 officers are purposefully not being interviewed about what 11 happened?</p> <p>12 MR. PREGON: Objection.</p> <p>13 A Well, whatever the appearance is, we also have 14 their report and we also have the video.</p> <p>15 BY MR. DICELLO:</p> <p>16 Q Did you provide the video to the coroner?</p> <p>17 A I honestly can tell you I don't know. In a lot 18 of -- and I can't -- Well, I don't have it reported, so I 19 can't tell you.</p> <p>20 Q As of the time that you met with the coroner 21 when he was conducting the autopsy, did you know whether 22 or not the coroner had seen the video?</p> <p>23 A No. Because the only time that I met was the 24 next day. The autopsy was performed the next morning.</p>
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<p>1 Q Yeah.</p> <p>2 A I don't even think I had the video at that</p> <p>3 point.</p> <p>4 Q Were you investigating Mr. Richardson's</p> <p>5 actions?</p> <p>6 A We look at the entire, everyone's actions.</p> <p>7 Q Did you come to any conclusions that</p> <p>8 Mr. Richardson committed any crimes?</p> <p>9 A Crimes? No.</p> <p>10 Q Did you come to any conclusions that</p> <p>11 Mr. Richardson violated any jail rules?</p> <p>12 A No.</p> <p>13 Q Did Mr. Richardson, based on your</p> <p>14 investigation, hurt anybody?</p> <p>15 A Hurt anybody? No.</p> <p>16 Q Did he try to hurt anybody?</p> <p>17 A I know there was a cooperation issue.</p> <p>18 Q Do you know --</p> <p>19 A There was a re -- Based on what I saw, based on</p> <p>20 what was reported, complying with commands, complying with</p> <p>21 what he was told to do was not done.</p> <p>22 Q Do you know if he was capable of complying with</p> <p>23 the commands?</p> <p>24 A That, I do not know.</p>	<p>1 Q He had an enlarged heart; true?</p> <p>2 A Yes.</p> <p>3 Q Based on what you observed, Mr. Richardson had</p> <p>4 participated in a struggle with corrections officers;</p> <p>5 correct?</p> <p>6 A Yes.</p> <p>7 Q Based on what you observed, the corrections</p> <p>8 officers used force against Mr. Richardson; true?</p> <p>9 A Force was used, yes.</p> <p>10 Q As of 2012, were you familiar with a</p> <p>11 general rule in law enforcement that once somebody is</p> <p>12 handcuffed behind their back in a prone position that you</p> <p>13 need to get that person off their belly as soon as</p> <p>14 possible?</p> <p>15 MR. PREGON: Objection.</p> <p>16 Go ahead.</p> <p>17 A It's not quite as simple as that. But you</p> <p>18 would want them moved, yes.</p> <p>19 BY MR. DICELLO:</p> <p>20 Q And why is it that you would want them moved</p> <p>21 off their belly as soon as possible when their hands are</p> <p>22 cuffed behind their back?</p> <p>23 A If you can do that safely with them complying,</p> <p>24 you can do that.</p>
<p style="text-align: center;">Page 74</p>	<p style="text-align: center;">Page 75</p>

<p>1 A Aware of it? Aware that something could 2 happen, yes.</p> <p>3 Q As of May of 2012, were you aware of what the 4 risk factors are that are associated with an increased 5 risk of death in that position?</p> <p>6 A No.</p> <p>7 Q Did anything in your investigation lead you to 8 conclude that Mr. Richardson was armed at any time?</p> <p>9 A With physical weapons, he had his hands, he had 10 his legs, yes.</p> <p>11 Q Other than his hands --</p> <p>12 A Are you talking guns, knives?</p> <p>13 Q Yeah.</p> <p>14 A Clubs? He had -- Based on -- There was no 15 information that he had any.</p> <p>16 Q Did the coroner tell you when Mr. Richardson 17 had his heart attack?</p> <p>18 A No.</p> <p>19 Q Do you know when he had a heart attack?</p> <p>20 A No, I do not.</p> <p>21 Q Do you know if he had a heart attack?</p> <p>22 A Based on Dr. Casto's report is he had a cardiac 23 arrhythmia death. Now, what that terminology, that 24 definition means, I can't tell you. But that was based on</p>	<p>1 December 4, 2015</p> <p>2 Dear Mr. Clymer,</p> <p>3 You have chosen to read and sign your transcript. 4 Please do not mark on the transcript. Any 5 corrections/changes you may desire to make in your 6 testimony should be typewritten or printed on the errata 7 sheet at the end of testimony, giving the page number, 8 line number and desired correction/change. After you have 9 read the transcript, sign your name on the correction 10 sheet and where indicated at the close of testimony before 11 a notary public.</p> <p>12 The Rules of Civil Procedure allow thirty days for 13 you to read and sign. Please return the signature page 14 and errata sheet to Whitney Layne, 6723 Cooperstone Drive, 15 Dublin, Ohio 43017 within that time. Failure to do so in 16 the allotted time will result in your transcript being 17 used as though read and signed by you.</p> <p>18 Sincerely,</p> <p>19 _____</p> <p>20 Whitney Layne 21 Professional Reporter</p> <p>22 Cc: 23 Nick DiCello Carrie Starts Jamey Pregon</p> <p>24</p>
<p style="text-align: center;">Page 78</p>	<p style="text-align: center;">Page 80</p>

<p>1 the findings of Dr. Casto.</p> <p>2 Q Mike, those are all the questions I have for 3 you.</p> <p>4 A Okay.</p> <p>5 Q I appreciate your patience with me.</p> <p>6 A No problem.</p> <p>7 MR. PREGON: We'll read.</p> <p>8 - - -</p> <p>9 (Signature not waived.)</p> <p>10 - - -</p> <p>11 And, thereupon, the deposition was concluded at 12 4:45 p.m.</p> <p>13 - - -</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 State of _____</p> <p>2 County of _____</p> <p>3 I, JOHN MICHAEL CLYMER, do hereby certify that I 4 have read the foregoing transcript of my deposition given 5 on November 18, 2015; that together with the correction 6 page attached hereto noting changes in form or substance, 7 if any, it is true and correct.</p> <p>8 _____</p> <p>9 JOHN MICHAEL CLYMER</p> <p>10 I do hereby certify that the foregoing transcript 11 of the deposition of JOHN MICHAEL CLYMER was submitted to 12 the witness for reading and signing; that after he had 13 stated to the undersigned Notary Public that he had read 14 and examined his deposition, he signed the same in my 15 presence on the ____ day of _____, 2015.</p> <p>16 _____</p> <p>17 Notary Public</p> <p>18 My Commission Expires on _____</p> <p>19 - - -</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
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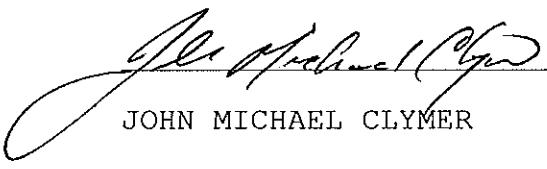
1 State of Ohio

2 County of Montgomery

3 I, JOHN MICHAEL CLYMER, do hereby certify that I
4 have read the foregoing transcript of my deposition given
5 on November 18, 2015; that together with the correction
6 page attached hereto noting changes in form or substance,
7 if any, it is true and correct.

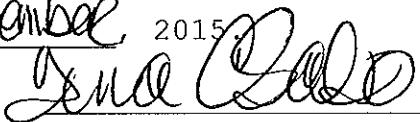
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9


JOHN MICHAEL CLYMER

10 I do hereby certify that the foregoing transcript
11 of the deposition of JOHN MICHAEL CLYMER was submitted to
12 the witness for reading and signing; that after he had
13 stated to the undersigned Notary Public that he had read
14 and examined his deposition, he signed the same in my
15 presence on the 9th day of December, 2015

16



Notary Public

17 My Commission Expires on _____
18

19

20

21

22

23

24



TINA C. SABO
Notary Public, State of Ohio
My Comm. Expires April 27, 2016

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1 TO THE REPORTER:

2 I have read the entire transcript of my deposition taken
3 on the 9th day of December, 2015, or the same has been
4 read to me. I request that the following changes be
5 entered upon the record for the reasons indicated.

6

7 Page Line Correction and reason therefore

8

9 No Changes -

10

11

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21

22

23 Date 12/9/15 Signature JLICG

24

1 CERTIFICATE

2 State of Ohio : :

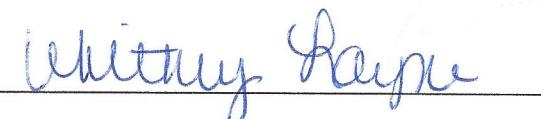
3 County of Franklin:

4

5 I, Whitney Layne, Notary Public in and for the
6 State of Ohio, duly commissioned and qualified, certify
7 that the within named JOHN MICHAEL CLYMER was by me duly
8 sworn to testify to the whole truth in the cause
9 aforesaid; that the testimony was taken down by me in
10 stenotype in the presence of said witness; afterwards
11 transcribed upon a computer; that the foregoing is a true
12 and correct transcript of the testimony given by said
13 witness taken at the time and place in the foregoing
14 caption specified.

15

16 IN WITNESS WHEREOF, I have set my hand and
17 affixed my seal of office at Dublin, Ohio, on this 4th day
18 of Decemer, 2015.

19 
Whitney Layne

20 Whitney Layne, Notary Public

21 In and for the State of Ohio

22 My Commission expires May 4, 2020

23

24

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